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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/719,959	11/21/2003	Paul J. Flanningan	. 59010US002	3577
32692	7590 11/01/2006		EXAMINER	
3M INNOVATIVE PROPERTIES COMPANY			PATEL, NIHIR B	
	PO BOX 33427 ST. PAUL, MN 55133-3427			PAPER NUMBER
,			.3772	
			DATE MAILED: 11/01/2006	

Please find below and/or attached an Office communication concerning this application or proceeding.

	Application No.	Applicant(s)				
	10/719,959	FLANNINGAN ET AL.				
Office Action Summary	Examiner	Art Unit				
	Nihir Patel	3772				
The MAILING DATE of this communication appears on the cover sheet with the correspondence address Period for Reply						
A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION. - Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication. - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication. - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).						
Status						
1) Responsive to communication(s) filed on 08.22	<u>2.2006</u> .					
3) Since this application is in condition for allowar	nce except for formal matters, pro	secution as to the merits is				
closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213.						
Disposition of Claims						
4)⊠ Claim(s) <u>1-23</u> is/are pending in the application.						
4a) Of the above claim(s) is/are withdrawn from consideration.						
5) Claim(s) is/are allowed.						
6)⊠ Claim(s) <u>1-23</u> is/are rejected.						
7) Claim(s) is/are objected to.						
8) Claim(s) are subject to restriction and/or election requirement.						
Application Papers						
9) The specification is objected to by the Examine	r.					
10) The drawing(s) filed on is/are: a) acce						
Applicant may not request that any objection to the						
Replacement drawing sheet(s) including the correct						
11)☐ The oath or declaration is objected to by the Ex	raminer. Note the attached Office	Action or form P10-152.				
Priority under 35 U.S.C. § 119						
 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f). a) All b) Some * c) None of: 1. Certified copies of the priority documents have been received. 						
2. Certified copies of the priority document		on No				
3. Copies of the certified copies of the priority documents have been received in this National Stage						
application from the International Bureau (PCT Rule 17.2(a)).						
* See the attached detailed Office action for a list of the certified copies not received.						
Attachment(s)						
1) Notice of References Cited (PTO-892)	4) Interview Summary	(PTO-413)				
2) Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail D 5) Notice of Informal F					
Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date	6) Other:	atom rippinguisir				

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DETAILED ACTION

Response to Arguments

1. Applicant's arguments filed on August 22nd, 2006, with respect to claims 1-23 have been fully considered and are persuasive. The rejection(s) set forth in the previous office action has been withdrawn.

Claim Rejections - 35 USC § 103

- 2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:
 - (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.
- 3. The factual inquiries set forth in *Graham* v. *John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:
 - 1. Determining the scope and contents of the prior art.
 - 2. Ascertaining the differences between the prior art and the claims at issue.
 - 3. Resolving the level of ordinary skill in the pertinent art.
 - 4. Considering objective evidence present in the application indicating obviousness or nonobviousness.
- 4. Claims 1-7, 9-20, 22 and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gleason et al. (US 6,016,804) in view of Scholey et al (US 6,298,849).
- 5. As to claims 1, 4, 13 and 22, Gleason discloses the applicant's invention as claimed with the exception of providing a fluid communication component that is separately from the supporting portion of the face-piece insert. Scholey discloses an apparatus that does provide a fluid communication component that is separately from the supporting portion of the face-piece

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insert 26 (see figure 1C). Therefore it would have been obvious to modify Gleason's invention by providing a fluid communication component that is separately from the supporting portion of the face-piece insert as taught by Scholey so that it is impervious to fluid flow.

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- 6. As to claims 2 and 14, Gleason teaches a method of securing a compliant face-contacting member 24 to the face-piece insert.
- 7. As to claims 3 and 16, Gleason teaches a method step of securing a harness to the mask body (see figure 1).
- 8. As to claim 17, Gleason teaches an apparatus that further includes a filter cartridge for supporting the mask body over a person's nose and mouth (see column 2 lines 50-55).
- 9. As to claims 18 and 19, Gleason teaches an apparatus wherein the fluid communication component comprises part of an inhalation/exhalation valve (see column 6 lines 1-20)
- 10. As to claim 23, Gleason teaches an apparatus that further comprises at least one filter cartridge that is secured to the mask body at a location where the fluid communication component resides (see figure 1C).
- 11. As to claims 5-7, 9-12, 15 and 20, close reading of the applicant's specification reveals that these components have always been close tolerance or critical elements therefore applicant's designation of critical elements does not carry any patentable weight.
- 12. Claims 8 and 21 rejected under 35 U.S.C. 103(a) as being unpatentable over Gleason et al. (US 6,016,804) in view of Scholey and further in view of Fecteau et al. (US 6,497,232).
- 13. As to claims 8 and 21, closing reading of the applicant's specification (page 7 lines 15-25) reveals that the applicant has not established any criticality on why the supporting portion and the fluid communication component must be fused together and therefore it would be

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obvious to one in the ordinary skill of the art to use the fusing process or any other process as stated by Fecteasu to assemble the two component.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nihir Patel whose telephone number is (571) 272-4803. The examiner can normally be reached on 7:30 to 4:30 every other fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patricia Bianco can be reached on (571) 272-4940. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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Nihir Patel